

**SELECT BOARD MEETING**  
**October 11, 2018 5:30PM**

**Quorum noted**

**A. 5:30 PM:** Meeting called to order by Chairperson Murphy.

**B. Roll Call:** Mr. Murphy, Mr. Lytle, Mr. Donhauser, and Mr. Orestis.

**C. Pledge of Allegiance recited**

**D. Moment of Silence observed**

**E. Public Comment:**

**5:31 PM      1) Eliot Bicentennial Committee – Lena Barnhard – Transfer of Remaining Funds**

Ms. Barnhard said that she has been the Treasurer for the Bicentennial Committee since 2006; that we were supposed to write a book and the amount that was left \$20,968.55, but the book never materialized; that she added that she was very disappointed about that. She added that she's 93 and leaving for Florida and she can't hang on to this anymore; that she spoke with the President, Steve Beckert, and Jesse Kent, and they thought she should turn it over to the SB. She said that she had a bank check made and would be happy to turn it over with the request that these funds be put in a special account for future celebrations.

**5:33 PM**      Mr. Murphy said that he believes that we tend to lump our special accounts as one investment with our investors.

Mr. Lee agreed that, for purposes of investing, we do, clarifying that we keep each one separate and distinct as we would with your money; that we would set it aside under Bicentennial, as we have a number of reserve accounts for different purposes and hers would become one of those reserve accounts for a dedicated purpose.

Ms. Barnhard gave the check to Mr. Lee.

Mr. Lee thanked Ms. Barnhard for the money and for her many years of service.

**5:35 PM**      Mr. (Robert) Burns, Meadow Lane, said that he was here to talk about Spinney Creek and make a request to the SB to direct Mr. Lee to write a letter. At this time, he read a prepared letter that discussed lack of communication, a DMR (Department of Marine Resources) meeting that had to be rescheduled due to high resident attendance, and the concerns property owners have about Spinney Creek Shellfish's newest lease application to increase the number of cages in the creek. His letter also asked that the Town write a letter to the Maine DMR requesting

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denial of Spinney Creek Shellfish's newest application. He added that, at a Kittery Town Council meeting, we requested the same thing and Kittery is going to submit a letter to DMR. He acknowledged that Spinney Creek is State waters and that the weight of Eliot and Kittery is zero but we are asking that a letter go on record to say that we feel we should either have a scoping meeting or that their current license application be denied.

**5:39 PM** Mr. Donhauser asked who the lease is running from and to.

Mr. Burns said that the lease is from the State of Maine to Spinney Creek Shellfish Company; that DMR has the ultimate decision to either grant or deny the lease application. He clarified that we aren't against the aquaculture or them making a living out there but what they're doing is very similar to what is happening in Brunswick, on a percentage basis; that in Brunswick, they are trying to install about 40 acres of oyster cages in a bay and here they are trying to install 800 cages in that small body of water. He said that they control the water temperature in the summer because they want their oysters to grow; that we aren't against them growing their oysters but they just never determine to work with the people who border that; that there are more than 50 homes on that water, and 115 boats on that water and they never discussed it with us; that they just run it through DMR and only 5 riparian owners were notified about the meeting; that we objected and that's how the meeting came about.

**5:41 PM** Mr. Donhauser asked if Mr. Burns knew how long the lease agreement was for.

Mr. Burns said three years; that the decision on this application has to come out within the next 30 days so he imagines they'll start putting in cages next year. He added that the current cages are in three banks of 60 cages spread out along Spinney Creek; that he doesn't think anyone has a problem with that but, when they are expanding by a factor of 4, it's taking up quite a bit of water space.

Mr. Murphy said it was 3.67 acres.

Mr. Burns said that the fellow that lives across from him, in Kittery, owns 1,500 feet of Spinney Creek and he was never notified about this; that they are putting these cages 120 feet off his property. He added that, if that resident ever decided to subdivide that, he has 1,500 feet that could be 15 very expensive homes he could put on that body of water but, now, they would be looking at cages. He admitted we are in an uphill battle and probably won't win but we are asking to go on record that there should be a scoping hearing; that scoping hearings are required by DMR before every renewal and it never happened. He reiterated that, if they had worked with us, we could work something out.

**5:42 PM** Mr. Donhauser asked if their current lease had ended.

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Mr. Burns said that the current lease for their 180 cages has ended and they haven't pulled those out. He added that, if they're right off your waterfront property, the cages aren't very pretty and they smell. He said that because they control the water, they control the tide change; that he thinks the water got to 80 degrees this year and they don't flush the water out of the creek. He added that we understand they want their oysters to grow but, on the other hand, we've tested the water and the coliforms are four times the level allowed on the beach.

**5:43 PM** Mr. Murphy said that it bothers him about why the water was impounded, in the first place; that, granted, they wanted a causeway between Kittery and Eliot but it needn't have been a solid fill; that it could have been much more built on piles and let the water come and go, come and go. He asked why it was made into a causeway with a gate that could be closed.

Mr. Burns said that he has heard that the Maine DOT has designed a bridge where the gate is right now and that would be totally open to the river. He added that when you totally dump the water out of Spinney Creek into the river, there's a lot of mudflats and we don't have a problem with mudflats; that we do have a problem when they don't change the water and they have the rights to the water from the State to control that gate. He said that the people that live there...some waterski on the water, some people swim, fish...the water is basically given to Spinney Creek from the State of Maine for their operations without any regard for the people who live there and that is what our complaint is. He reiterated that we are not against their aquaculture.

**5:44 PM** Mr. Murphy asked if the nature of the water changes enough that it is no longer suitable for human beings.

Mr. Burns said that the coliform is 434 and 104 closes a beach; that when they flush out the water, the water is clean. He did add that oysters, as bi-valves, do clean water. He discussed their concern with Spinney Creek Shellfish's de-purification plant, which is in Eliot, and other issues he has encountered. He reiterated that they are in an uphill battle and all they are asking for is a letter to go to the DMR from the Town of Eliot; that their desire is to just go on the record with their objections to this.

**5:46 PM** Mr. Murphy said that a letter seemed reasonable and asked how the other SB members felt.

Mr. Lytle said that, when he was a SB member before, he knows the gate was controlled by the DOT, Town of Eliot, and a person from Spinney Creek but he doesn't know who does that today.

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**5:47 PM** Mr. Lee said that, when he first got here, we went through the Selectmen's policies and one of those policies states right in it that Spinney Creek Shellfish Company controls the gate and must notify the Town of what that schedule is going to be. He added that if the SB would like him to look into whether they can get control of the gate back, he could certainly do that simultaneously with submitting a letter saying we would like the scoping thing to take place before they do any approval. He found and read the policy regarding the gate, "Gate Management at Spinney Creek – Current Practice: MDOT has allowed the operation of the gate to be done by Spinney Shellfish Company, in part, because MDOT does not have the staff nor flexible schedules needed to open and close the gate Sunday evening, for example. Spinney Creek Shellfish Company takes many things into account when proposing a schedule for opening and lowering the gate. Other abutters want higher water on weekends when they are recreating. The Shellfish Company looks at tide schedules because the gate can only be maneuvered during a neutral or flat tide. This proposed schedule generally provides for opening the gate on Sunday nights and lowering it on Thursday nights or Friday mornings. The proposed schedule is then sent to all abutting property owners with riparian rights, the towns of Eliot and Kittery, the Department of Marine Resources, and the Department of Transportation. The letter says that if anyone has any questions or objections to call Spinney Creek Shellfish Company to make adjustments. Ultimately, the schedule could be decided by DMR and the two governing bodies of the town but no one has argued the gate schedule in quite some years and the system seems to work well.

**5:50 PM** Mr. Murphy said that he thought that should be reviewed, once again, and have more of the control come in an open manner to this Town because it has never come before him, that he knows of.

Mr. Lee said that he was hearing that abutters don't get the schedule of openings and closings.

Mr. Burns said that some people have gotten it; that he's never received one and they are the longhorns on that street. He added that they used to be right out in front of the property digging up oysters and we had no problem with that but, since they put the cages in, that's when things changed. He said that the gate being open Sunday through Thursday was a lot of tide changes and they only open it 4% of the time; that Sunday through Thursday is probably 60% to 70%. He added that warm water grows oysters quicker; that that is their business and he understood that they want to make money but they're controlling the water for their benefit, only. He said that DMR doesn't want to talk about the impact to property values, the smell of the water, or the temperature of the water. He said that one thing he's never understood is that, last year or the year before when they put out their cages, they had sign-off from the Eliot Harbormaster and the Kittery Harbormaster.

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**5:52 PM** Mr. Lee said that he thinks that's due to our Harbor Ordinance requiring that and Ms. Howell worked on that Harbor Ordinance, as she was on that committee.

Mr. Murphy said that it seemed to him that Eliot should stand up for its citizens and support their right to be heard no matter the final decision of the DMR will be; that he is in favor of such a letter to be written and Mr. Burns should work with this Board and the Town Manager to write a letter from the Town to the DMR politely, but strongly, suggesting that not all the steps were followed properly and citizen rights to express things were not recognized.

**5:54 PM** Mr. Lee said that his thought was to reach out to the Town Manager of Kittery so that, when she writes her letter, to have her send her letter over to him so that we make similar points on the scoping and lack of ability to speak; that he was going to follow the lead of Kittery and try to make the same points with Board input, if the SB approves this idea.

Mr. Burns said that there was an article in the Portsmouth Herald, today, on the meeting with the town council and their support in writing a letter.

Mr. Lytle asked if they have scheduled a hearing yet.

Mr. Burns said that they re-scheduled it at Traip Academy for October 27<sup>th</sup>; that 400 people showed up and some were turned away because there wasn't any room; that people flew in from California, Maryland, and Connecticut for that meeting and then it was cancelled. He added that it was poor planning by the DMR; that they didn't expect that, they expected a rubber stamp and they didn't expect this to happen.

**5:56 PM** Mr. Orestis said that he would be in favor of having a letter written, at least to state that the appropriate steps in the process were not followed.

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board direct the Town Manager to issue a letter regarding the lack of scoping and the possibility to deny the lease application in the event that the DMR doesn't have appropriate public hearings for the abutters with riparian rights.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

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**F. Approval of Minutes of Previous Meeting(s)**

There were no minutes tonight.

**G. Committee Resignations and Appointments**

**5:58 PM 1) Jessica O'Donoghue – Appointment to Tax Increment Financing Committee as Regular Member**

Mr. Murphy said that we were going to deal with Ms. O'Donoghue tonight but it doesn't make much sense to put a single person on a committee, as they can't do anything, anyway.

Mr. Lee said that, at our next meeting, we also have on to appoint the Cannabis Committee; that we gave one more month to see if we could find more candidates and we do now have enough candidates to populate the TIF Committee.

Mr. Murphy discussed his concern regarding the TIF Committee, saying he would like it to not just represent the citizens of the Town but the management of the Town, such as the Town Clerk as an ex officio member, to bring balance.

Mr. Lee suggested we defer this until the 25<sup>th</sup> and he will have the Town Clerk notify all candidates.

The SB agreed to defer this until the October 25<sup>th</sup> meeting.

**H. Department Head/Committee Reports**

**6:01 PM** Mr. Murphy said that he had a request from Chief Muzeroll to speak and invited him to speak.

Chief Muzeroll passed out a letter to the SB regarding his concerns with the union negotiations with the Public Works Department and the availability to respond by emergency responders who are also Town employees. He read the letter to the attending public. He said that what he's trying to do is ensure that he has as many people as he possibly can, under these current conditions, to provide a service to the Town and prolong him coming before the SB and the Budget Committee requesting part-time and full-time help during the day. He added that part-time help during the day is at a premium because there is nobody in Town; that he can't go to area business people, like some other towns, and say if we have a fire, and these guys are interested, will you release them to go to a fire during the daytime when they have already found out and asking why they should do that if the Town is restricting their own employees to go to the fires. He reminded the SB that there is language in the contract that identifies us as volunteer firefighters;

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that we're not volunteers in the eyes of the law – we are called firefighters, we are paid an hourly rate, we are Town employees, every one of them. He said that they are also voting members of this community and taxpayers, every one of them. He added that he's asking for some support so, at least, we can get some information passed back-and-forth and open discussion; that he's not intending to negotiate a contract nor does he really want to talk about that; that he just wants to lay out some information that the SB may not be privy to.

**6:09 PM** Mr. Murphy asked what the minimum crew was, saying that it probably depended on the event.

Chief Muzeroll said that the operation of the Fire Department or the vehicles that go out of the station are sometimes dependent on what the type of call is. He added that, ideally, he would like to have six guys on the truck but that's an impossibility; that four people in a truck for a structural fire meets the requirements for two people in the building and two people outside the building. He said that if we don't have that minimum manning for a structure fire, we have to rely on somebody else to help us out to supplement that manpower, or, we are defensive, only; that we don't go into a building because we don't have adequate backup. He added that, historically during the daytime, he is very lucky, even if you include him, to have the truck minimally manned with a driver, an officer, at least one firefighter, and himself; that he shouldn't be but he is still fully qualified to perform firefighting functions. He said that, if it's a large fire during the daytime, it's going to be almost an impossibility, under any circumstance, to have the available manpower within a reasonable amount of time to get all the trucks out of the station; therefore, we rely on our automatic mutual aide partners as well as they rely on us in the same situation.

**6:11 PM** Mr. Murphy said that there would be an associated time delay.

Chief Muzeroll agreed; that we can't be there like 'that', even though some people think it's forever until we get there but, in actuality, it's not.

Mr. Murphy asked if it is time for Eliot to begin to develop a minimum central body of paid employees.

Chief Muzeroll said that it is; that he's not going to tell them that it's going to show up in the budget this year; however, informal discussions with the SB and the budget process, as well as the Budget Committee, should happen this spring as soon as we can get some data together and crunch some numbers. He added that he's trying to slow the process down, save us some tax dollars, utilize what we have for personnel that are fully-qualified and on-board, already, and entice further Town employees that aren't bounded by a union contract, if they meet the

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other requirements, to become members of the Fire Department and serve the community.

**6:12 PM** Mr. Murphy asked how common it was for a community to have part paid and part volunteer.

Chief Muzeroll said that it is becoming more and more prevalent across the country in communities our size and the types of calls that we have; that they're hiring what's normally called per diem firefighters, or look to hire per diem firefighters, which are generally part-time people, usually below the threshold of maximum benefits that the town would have to pay; that they're guys that are off-duty from another department or they're trying to get their foot in the door with experience to move to another department. He added that he has spoken with some area chiefs; that we are all meeting occasionally to discuss what their game plan is, how it could relate to us and what our game plan is, and how that could relate to them. He said that he believes that Kittery already has per diem firefighters for weekend coverage but not during the week; that they have some municipal supplement and they have some local businesses that release people but, then, nothing is guaranteed.

**6:13 PM** Mr. Lee said that he didn't know if you are aware of this but we have a tentative agreement that has been agreed to by the union; that there are a couple of members that don't like it and Chief Muzeroll did have a chance to come in and express his views on letting Public Works employees go with the last SB; that he has conveyed those thoughts to the current negotiating committee, as well. He added that the SB has a tentative agreement that has been worked, now, for in excess of a year and slowing something down at this point is very unwise, as we could set back these negotiations significantly. He said that we have an executive session coming up later where the SB is going to get updated on both the contracts. He added that, before the SB makes any commitments, he thinks they ought to hear what happens in executive session.

**6:14 PM** Chief Muzeroll said that he thinks, before the SB makes any decisions, they ought to hear the 'Paul Harvey' version – the whole story; the new Board, everybody that's involved, give the Fire Department, the Fire Chief specifically, the opportunity to be candid, again, with you, state his case, make your decisions on information provided to you.

**6:15 PM** Mr. Murphy thanked Chief Muzeroll, saying that we will have to ponder this but we'll see Chief Muzeroll on November 8<sup>th</sup>. He asked for the Board's thoughts.

Mr. Donhauser said that he's not opposed to what Chief Muzeroll is saying; that he does agree with Mr. Lee that we should at least listen to what's going to happen in executive session tonight before we make our decision.



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Chief Muzeroll said that he doesn't know what will happen in executive session; that his biggest concern is that there is language out there that may control his budget, his manning, or anything that has to do with the operational response of that department without him being able to weigh in. He added that he doesn't know what the current language is or whether it's the same as it was a year ago.

**6:16 PM** Mr. Orestis said that he thought we should have that conversation in executive session to see what comes out of that and, then, make a determination.

Mr. Murphy said that that's what we'll do.

Mr. (Jim) Tessier, Johnson Lane, asked if he heard right that there is something that prevents Chief Muzeroll from approaching businesses to get some of their employees to help.

Chief Muzeroll clarified that it doesn't take long in a small community for the word to get out that there's a negotiation going on, maybe, that will restrict Town employees from responding to an emergency call; so, when he proposes and meets with business leaders to ask them for their help if they have people in Town that are fully qualified, they already know, and ask why they should release people and they see a DPW truck driving by with fully qualified firefighters that can't respond. He added that he has spoken to business leaders in other communities that have the same concern; however, they have much better support in utilizing town employees to supplement their daytime responses. He said that, in answer to Mr. Tessier's question, there's some pushback but it's got to work both ways; that we can't prevent and ask someone else to donate. He also clarified that there is nothing that prevents him from addressing the area businessmen.

**6:18 PM** Ms. (Donna) Murphy, Hanscom Road, asked if it was an unknown of what's in the contract or does the Chief have confirmation that his employees, through the Town, are restricted from responding during the day when they are on the clock; that the second piece of that would be, if they are allowed to respond, how would that pay work, asking if they are still being paid as Town employees or are they losing that and just getting a stipend.

Chief Muzeroll said that any time a Town employee comes to a fire, while they are on duty, they are not paid by the Fire Department; they are continued to be paid by their current wage. He added that, because he is not part of any negotiating team, he is not privy to any information; that he can't verify that his word-of-mouth is accurate; that all he knows is that it was enough to concern him that there may be further language to restrict or prevent, based on somebody else's schedule, how we will respond to emergencies.

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**6:19 PM** Ms. (Donna) Murphy said that she doesn't know what's in the contract but, as a citizen, she would be concerned that there wasn't a provision in there allowing employees to respond to emergencies; that she knows that the Chief has had difficulty in filling positions, as they are volunteer positions and, as a citizen, she would support a Town employee being allowed to leave to respond to an emergency and to be continued to be paid.

**6:20 PM** Mr. Murphy said that it was his understanding that, sometimes, employees are in a position that they can't leave, either, because it's an emergency for their work; that, if they have a ditch that's going across the road, they can't walk away and leave that open ditch.

Mr. (Robert) McPherson said that he has a lot to say but he would just like to add something before the SB goes into executive session regarding mutual aide companies; that mutual aide companies are staffed the same way our company (Fire Department) is right now- they are staffed with Town employees and local businesses; that when we call Kittery for mutual aide, we are getting their town employees and their businesses that allow people to come; that the South Berwick Water District and Highway Department would be sending their town employees to Eliot to cover our station or to a structure fire where our employees wouldn't be allowed to go, along with G\_\_\_\_\_ Oil who has four employees that he would be sending to Eliot to do the work that our two people aren't allowed to do.

**6:21 PM** Mr. Lee said that there is a presumption that they are not be allowed to go and he thinks that, when we speak in executive session, the SB will find that not to be the case.

**I. Administrative Department**

**6:22 PM 1) Town Manager Report**

Mr. Lee said that one thing the Chairman asked about before the meeting started was about having offered a position – Treasurer – to a person; that that person subsequently recanted taking the job over the weekend and, so, he is interviewing another candidate for the Treasurer position tomorrow. He added that he has an offer of employment to a planner that we'll also discuss in executive session.

**6:23 PM** Mr. Donhauser said that he would like an update on the Staples fence issue.

Mr. Lee said that that has gone to the court with a new affidavit from our new CEO with some pictures that verify that the fence is still there against the previous order to remove it and we are awaiting a judge ruling to be able to be able to go in and remove the fence, physically, from the property; that we will probably leave it with him and do it through a contractor and bill that to him, as well.

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**6:24 PM** Mr. Murphy asked, if the fence is removed, it will be down but, if it were moved 2 feet back and left up in order to protect the owner of the fence from the neighbor's dogs coming over, which was the original intent supposedly, would that satisfy.

Mr. Lee said that the order from the judge is not going to have us move it 2 feet but simply move it and set it down on the ground; that it's still his problem to put that fence in properly; that that is not something he is going to be told to do by the court. He added that Mr. Staples has had many months to do that.

Mr. Murphy asked if Mr. Staples understood that that was the simplest, legal action to take.

**6:25 PM** Mr. Lee reminded the SB that Mr. Staples attorney stood right here and asked for one more month and that fence will be moved; that we granted that and, now, his attorney is nowhere to be found; that he doesn't think that Mr. Staples has representation at this point.

Mr. Donhauser said that he was personally opposed to having anybody from the Town, either an employee or a contractor, move that fence. He added that he was a proponent of getting a Writ of Execution, which means that you actually have a right to put a lien on Mr. Staples' property and, perhaps, go a step further and sell that property; that it's not just now the cost of removing the fence but the penalties he's incurred by ignoring the Town; that it seems to him that we've given Mr. Staples plenty of time. He said that, by a Town employee or contractor of the Town going on this property for any purpose, in his mind, only allows him to say we've done something incorrectly; that we will end up in another event where Mr. Staples will take issue with the Town. He added that he knows we're going forward and move the fence, one way or the other, but we still end up with a substantial fine.

**6:27 PM** Mr. Lee said that his original view was to do a Sheriff's Sale; that we will end up doing a Sheriff's Sale on one of his many properties to collect that money.

Mr. Donhauser said that Mr. Staples is certainly not responding to what we are attempting to allow him to do.

Mr. Lee said that, hopefully, the court's order is very, very clear; that he will have a conversation with the attorney regarding that.

**6:28 PM** **a. Spirit of America Award – Eliot Boy Scout Troop #340**

Mr. Lee said that they called us and asked for a nominee for the Spirit of America Award that is done as a 501c charity and it will be honored at a ceremony being

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hosted by the York County Commissioner. He added that we had nominated Eliot Boy Scout Troop #340, which is the group that has done the Eliot Free Library and several other projects; that he wanted to advise the SB that they are now being recognized and he is very pleased about that because they have done some really good projects for the Town and he looks forward to continuing to work with them. He said that they have won the 2018 Spirit of America Foundation Tribute for outstanding community service.

**6:30 PM      b. Safety Committee**

Mr. Lee said that we have kicked off a staff-level safety committee and he wanted to share the internal working document with the SB on what the purposes are for that committee (safe work practices/procedures); that Officer Grogan will be the Chairperson and we have one member from each of the departments, along with himself as Secretary, that will be attempting to do everything laid out in the policy. He added that when you form a safety committee and meet at least once quarterly, you get a discount on your Worker's Compensation premium. He said that part of this is monetary and part of it is that it's the right thing to do to make sure people don't get hurt.

**6:34 PM      2) Personnel Policy Update (Revised & 2<sup>nd</sup> Reading)**

Mr. Lee said that there was a misunderstanding with staff regarding the award of lump sum vacation and the pro-rationing of payout upon separation; that it is awarded for past service, not future service, which required a proposed language change on page 27 of the Personnel Policy, which he asked the SB to review. He added that, in essence, part of this conversation is that people have already lost earned vacation time by swapping over to an approval system; that they felt that and is part of the morale issue, he thinks, that he didn't fully appreciate.

Mr. Donhauser asked if this has an impact on union contracts.

**6:35 PM      Mr. Lee said no because unions have their own provisions for how vacation time is earned; that both of the unions are on a lump sum award, which is for the year that has gone past. He added that there are wild inconsistencies when you have two union contracts and then a group of non-union people.**

Mr. Donhauser said that he thought this was an appropriate change, as we can't take it away once earned.

**6:38 PM      Mr. Orestis asked if we had the previous Personnel Policy where something like that would be listed, as he is curious if there is something in the past that shows that.**

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Mr. Lee said that he thought they had all the old Personnel Policies.

**6:39 PM** Mr. Orestis said that he's trying to think it through, and maybe it's him, but every position he's ever had it's always been fore-facing; that you could use it but, if you used too much and then leave the job, you end up paying back some of that time.

Mr. Lee said that any adoption of this could be postponed, look at the policies to see if they are clarifying in any way, and possibly have a couple of staff members send a note as to how it has worked.

Mr. Donhauser said that he recalls, from past auditing, that there is a reserve, actually an unfunded reserve, explaining that we computed how much vacation has been earned by individuals and then said that, if all individuals left at that moment, the Town wouldn't have a reserve sufficient enough to pay all that accumulated vacation; so, that would somewhat imply that they are earning in arrears; that they are earning it before they are awarded it.

**6:40 PM** Mr. Lee agreed that that is what they are saying.

Mr. Donhauser said that, from Mr. Orestis' point, he thinks we should look at past practices and defer this for two weeks to look at this.

Mr. Lee said that he would put copies of older policies in SB boxes to see if it confirms or denies this reality.

Mr. Orestis said that, as of right now, it is accrual-based.

Mr. Lee agreed; that the feeling is that not only did we not get the lump sum for the past year but, now, we're having to accrue a little bit each month going forward, and there is a feeling that there was a missed amount of time.

Mr. Murphy offered some grammatical changes to the document.

The SB agreed to review and bring this back in two weeks.

**6:48 PM**      **3) Town Manager Evaluation Process**

This was regarding the form that the SB has been using to evaluate the Town Manager.

Mr. Lee explained the process, asking if the SB wanted to shoot for November 8<sup>th</sup>, which would give them the rest of October to fill the form out and get it to the designated member, and what date would they be turned in for final tally.

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It was agreed that Mr. Murphy would receive evaluation forms by October 19 and summarize to get them to the Town Manager for his review, and an executive session would be held on October 25<sup>th</sup> to evaluate the Town Manager's performance.

Mr. Murphy said that, if it appears it will take longer, he will inform people and the schedule can be adjusted.

**6:55 PM      4) Capital Improvement and Energy Commission By-laws (Revised)**

Mr. Lee said that this has been revised to include both Capital Improvement facility-type review things and some of the previous duties of the Energy Commission; that he believes it is ready for adoption.

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board accept Capital Improvement and Energy Commission By-laws, as presented.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**6:57 PM      5) Sand/Salt Shed Reimbursement (1991) - \$37,999.01**

Mr. Lee said that this is a plain-out miracle from the Community Services Division Maine Department of Transportation regarding reimbursement for the State share of building the Town sand/salt building in 1991. He read the letter that described the priority levels and why that impacted the length of time it took to get the reimbursement, which is in the amount of \$37,999.01. He added that it will drop through, as a revenue, to our fund balance.

**7:00 PM      6) Excise Tax Reimbursement**

Mr. Lee said that this is another good story, he thinks, and is from our Town Clerk. He read the memo, which described a reimbursement of excise tax program she implemented that benefits the Town and people doing business in our Town, which gave the Town a reimbursement of \$8,915.45 for 2017/2018.

Mr. Murphy said that the SB wanted to thank our front office for their diligence.

**SELECT BOARD MEETING**  
**October 11, 2018 5:30PM (continued)**

There was discussion regarding how the process works, how much goes to the State, and how much is retained in the Town treasury.

**7:08 PM      7) Updating Eliot's Building Code to State Standards**

This was a memo from the CEO regarding updating Town codes from the 2009 version, as the code language does not reference by dates but allows for whatever the State is currently using. The memo referenced the codes to be updated and those that, while the State has not adopted, could be followed as guidelines should someone choose to use them.

Mr. Lytle moved, second by Mr. Donhauser, that the Select Board adopt the 2015 International Residential Code (IRC), the 2015 International Building Code (IBC), the 2015 International Existing Building Code (IEBC), and the 2009 International Energy Conservation Code (IECC),

**DISCUSSION**

Mr. Orestis asked if this is something, even though it isn't specifically stated in our ordinances, that we should have the PB involved in.

**7:10 PM      Mr. Lee said that the PB really doesn't have a lot to do with codes; that they are the land use arm – setbacks, zones, etc.**

Mr. Orestis asked what has held us up from updating previously.

Mr. Lee said that nobody brought it to his attention, recently, and he asked about it and suggested we bring them up to their most current standards, per our ordinance.

**7:12 PM      Mr. Murphy asked if this would require expenditures from the CEO's budget.**

Mr. Lee said that, when Heather was here, we did budget to update the code books, and he and Mr. Mitchell are completing the update.

**DISCUSSION ENDED**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis – Yes**

**SELECT BOARD MEETING**  
**October 11, 2018 5:30PM (continued)**

**Unanimous vote to approve motion.**

**7:13 PM      8) Countersign Public Hearing Notice**

Mr. Lee read the Public Hearing Notice and said that we need a motion, second, and positive vote to hold this hearing.

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve the Public Hearing Notice that the Municipal Officers of the Town of Eliot will hold an Informational Public Hearing on Thursday, October 25, 2018 at 7:00PM as part of a Regular Business Meeting at the Eliot Town Office.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis – Yes**

**Unanimous vote to approve motion.**

At this time, the SB signed the pertinent document.

**7:15 PM      9) Request Space Study of Town Hall – Kelly Davis, Architect**

Mr. Lee said that this is something that has been long talked about and was mentioned in the 2009 Comprehensive Plan that this building would probably not last more than four or five years until it needed to be expanded; that the person who designed this building, originally, was Kelly Davis (PortOne Architects) about 30 years ago. He added that he called Mr. Davis to get a budget number to see what a space study would cost and he offered to do it for free, possibly in the belief that, when it came to doing the drawings, that he did the original drawings and he would probably be able to beat anybody on price to do updated drawings. He said that the SB has the proposal that was turned down two years ago because they thought we had too many things on our plate; that it seems to him that we always have too much on our plate and it will probably be hard to ever get around to it because we have so many things going on; however, we can all multi-task pretty well and having a space study done would at least give us an idea of how much space, with Mr. Davis giving us a cost estimate of how much per square foot for this type of a commercial building, if it will fit on this site or not, etc. He added that he thought we needed to know a little something before we go any further and he was wondering if this Board would like him to reach out to Mr. Davis to ask him if the offer still stands.



**SELECT BOARD MEETING**  
**October 11, 2018 5:30PM (continued)**

**7:17 PM** Mr. Orestis said that he saw no harm in that; to reaching out to see if he would still offer free services about a space study, as there is nothing binding.

Mr. Lee agreed. He said that every nook and cranny is filled in this building, citing examples of the impact on citizens and staff in doing the Town's business. He added that he thinks we've outgrown this building.

The SB had no objection to Mr. Lee proceeding.

**7:19 PM      10) Meadow Lane Update**

This was to inform the SB that the PB is reviewing the ordinances/requirements for the acceptance of Meadow Lane as a Town road and that Ms. Sherwin is reviewing requirements that would allow the SB to put this on the ballot.

**7:21 PM      11) Approve Warrants**

Mr. Murphy moved, second by Mr. Donhauser, that the Select Board approve A/P Warrant #31 in the amount of \$125,278.69, dated October 1, 2018.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis – Yes**

**Unanimous vote to approve motion.**

**J.      New Business:**

**7:22 PM** Mr. Donhauser said that the Town is currently operating under a pay scale that was effective December 1, 2017 and encompasses 10 steps. He added that what he wanted to bring to the SB is something similar but extended out farther, from 10 to 20 steps; that under the current plan, people are redlined, which means that once they've reached a certain step, they can no longer go any farther and the reason for the 20-step period would be to actually allow the employee to look at employment with the Town of Eliot as a career. He said that he would like to show the SB a spreadsheet that will show you a different program to go from a 10-step pay program to a 20-step pay program that doesn't redline anybody; that it does include a 1½ % increase yearly, as a plan, which can be changed at any time. He added that he is making the SB aware of this and wants to give them this proposal; that we may adopt something different but at least this is a more adequate plan for the Town of Eliot. He said that he spoke with the South

**SELECT BOARD MEETING**  
**October 11, 2018 5:30PM (continued)**

Berwick Town Manager today and he explained that there are fewer and fewer people who want to come into employment in municipalities and one reason is that we are paying, historically and currently, less than what they can earn in private industry; that through this conversation, it is his understanding that Eliot, South Berwick, Kittery, and Berwick have no finance director so there are four towns competing for a finance director and we are not having much success in acquiring one. He clarified that one example is that when a finance director is interviewed by the Town, Mr. Lee is restricted, as he can only offer somewhere on that 10-step plan, and he thinks we are only cutting ourselves short by having the current plan as opposed to having a longer plan where somebody can actually see a career that they could have with the Town; that, additionally, current municipal employees are retiring and there isn't a pipeline of new employees coming up. He said that he thinks we need to adjust our pay plan to be more compatible with the long-term horizon rather than just a 10-step horizon.

**7:26 PM** Mr. Murphy agreed that this was an important subject and suggested planning now to schedule a work session of this and invite department heads and staff.

The SB scheduled a workshop for the 18<sup>th</sup> and Mr. Donhauser will forward his spreadsheet to the SB and Town Manager.

**K. Old Business:**

**7:28 PM** Mr. Orestis asked about the skate park.

Mr. Lee said that there was no movement on the skate park at this point.

**L. Selectmen's Report: Seeking Committee Members (TIF, Clean Water, Cannabis, Cable TV)**

**7:29 PM** Mr. Donhauser said that he attended the Aging-in-Place Committee meeting today and he was extremely impressed with their excitement and what they're trying to do; that they have a survey online that you can fill out or paper copies, which he has some with him tonight. He added that they have big plans for Aging-in-Place and a lot of really good ideas; so, he was quite impressed with the group.

Mr. Lee agreed, saying that they have a lot of energy and are well-coordinated; that they are going to be at the Transfer Station Saturday with the surveys, he believes. He also reminded people that we still have openings on the TIF Committee, the Cannabis, the Clean Water, and Cable TV committees. He added that he attended a class on negotiating a cable franchise with MMA and he doesn't know how much help a committee is going to be on this, honestly; that he's collected a lot of material on it but that Cable TV Committee, given how many committees we currently have and the three new ones, we may want to

**SELECT BOARD MEETING**  
**October 11, 2018 5:30PM (continued)**

reconsidered whether we want to do a cable tv committee, or not. He added that he knows Mr. Pomerleau would like to see a PEG Station but, for starters, we don't have any room to put it; that it's a great idea but there's a pass-through of a franchise fee and there's a lot to it; that it would mostly be training people on the committee what's possible and not possible and he's beginning to think that may not be terribly helpful.

**M. Executive Session**

**7:31 PM** Mr. Murphy moved, second by Mr. Donhauser, that the Select Board enter into executive session as allowed by 1 M.R.S.A. §405.A Personnel Matters and 1 M.R.S.A. §405.D Labor Negotiations.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**8:34 PM Out of executive session**

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board ratify the collective bargaining agreement with the Maine Association of Police from July 1, 2018 to June 30, 2021.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**N. Adjourn**

There was a motion and second to adjourn the meeting at 8:36 PM.

**VOTE**

**4-0**

**Motion approved**

**SELECT BOARD MEETING**  
**October 11, 2018 5:30PM (continued)**

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**

**S/ Mr. Richard Donhauser, Secretary**

**Date approved: November 29, 2018**